

TENTATIVE RULINGS for CIVIL LAW and MOTION

January 27, 2010

Pursuant to Yolo County Local Rules, the following tentative rulings will become the order of the court unless, by 4:00 p.m. on the court day before the hearing, a party requests a hearing and notifies other counsel of the hearing. To request a hearing, you must contact the clerk of the department where the hearing is to be held. Copies of the tentative rulings will be posted at the entrance to the courtroom and on the Yolo Courts Website, at www.yolo.courts.ca.gov. If you are scheduled to appear and there is no tentative ruling in your case, you should appear as scheduled.

Telephone number for the clerk in Department Fifteen: (530) 406-6941

TENTATIVE RULING

Case: **Page v. Regents of the University of California**
Case No. CV PM 08-228

Hearing Date: **January 27, 2010** **Department Fifteen** **9:00 a.m.**

Foundry Networks, Inc.'s motion to compel the Regents of the University of California ("Regents") to provide further responses to requests for admission nos. 24 through 29 and form interrogatory no. 17.1 and for monetary sanctions is **DENIED**. The Regents' response to the requests for admission at issue complies with the requirements of Code of Civil Procedure section 2033.220.

Plaintiffs Robert S. Page and Yun Young Page's motions to compel the Regents to prepare further responses to requests for admission, set no. two and the corresponding form interrogatories, set no. three is **DENIED**. (Code Civ. Proc., §§ 2033.220 et seq.)

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice is required.

TENTATIVE RULING

Case: **Wirthlin v. Murphy**
Case No. CV PM 09-1771

Hearing Date: **January 27, 2010** **Department Fifteen** **9:00 a.m.**

Plaintiff's motion for reconsideration based on *Howell v. Hamilton Meats & Provisions, Inc.* (2009) 179 Cal.App.4th 686 is **DENIED**. The holding in *Howell* is based on facts not before this court, namely, the financial responsibility agreements signed by the plaintiff and the existence of a "negotiated rate differential." Moreover, the motion at bar concerns discovery, not what is admissible at trial. The scope of discovery is broader than admissibility at trial. (Code Civ. Proc., § 2017.010; Weil & Brown, Calif. Practice Guide: Civil Proc. Before Trial (The Rutter Group 2009) ¶ 8:66-8:66.1.)

"When there are conflicting court of appeal decisions on point, the trial court can choose to follow *either* of them". (Jon B. Eisenberg, Ellis J. Horvitz, and Justice Howard B. Wiener

(Ret.), Calif. Practice Guide: Civil Appeals and Writs (The Rutter Group 2009) ¶ 14:195.) This Court finds the analysis in *Hanif v. Housing Auth. of Yolo County* (1988) 200 Cal.App.3d 635 and *Nishihama v. City and County of San Francisco* (2001) 93 Cal.App.4th 298 to be sound. Under the *Hanif/Nishihama* line of cases, the amount that an insurer has paid to the plaintiff's medical care provider(s) is relevant to the issue of the plaintiff's damages.

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice is required.